

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

NEXTGEN INNOVATIONS, LLC,

Plaintiff,

v.

II-VI, INC. and FINISAR
CORPORATION,

Defendants.

Case No. 4:20-cv-00854-SDJ

Judge Sean D. Jordan

JOINT RULE 26(f) REPORT

Pursuant to this Court's March 22, 2021 Order Governing Proceedings and Federal R. Civ. P. 26(f), attorneys for Plaintiff Nextgen Innovations, LLC and Defendants II-VI, Inc. and Finisar Corporation met and conferred in good faith on April 19, 2021, and hereby submit the foregoing Joint Rule 26(f) Report.

1. Modifications to the Scheduling Order

The parties agreed upon a proposed scheduling order (attached as Exhibit A) and ask the court to enter it on the docket.

- a. The parties do not believe that any specific limits on discovery relating to claim construction are needed.
- b. The parties do not believe that a Claim Construction Pre-Hearing Conference is necessary.

2. Mediation

The parties believe that mediation following the Claim Construction Hearing would be helpful in this case. At this time, the parties have not yet agreed on a mediator. They are continuing to evaluate potential mediators and will notify the Court at the scheduling conference if they have identified an agreed mediator or confirm that they were unable to reach agreement.

3. Limitations on Discovery

The parties do not believe that any modifications should be made to the normal limitations on discovery as set out in Section I of the Order Governing Proceedings.

4. Identity of Persons Expected to be Deposed

Plaintiff discloses the following individuals associated with plaintiff that the defendants may wish to depose: the named inventors; and experts to be disclosed by Plaintiff. Plaintiff expects to depose: a corporate witness for the defendants; each defendants' employees associated with marketing, technical, and financial areas related to the accused technologies;; any witnesses identified in Defendant's Rule 26 disclosures, and experts to be disclosed by defendants. Plaintiff's counsel agrees that it is authorized to accept service of process on behalf of the named inventors and the patent owners.

Defendants' Rule 26(a)(1) disclosures disclose individuals that the Plaintiff may wish to depose. Plaintiff may also wish to depose experts to be disclosed by Defendants. Defendants anticipate deposing the named inventors, the patent owners, a corporate witness for Plaintiff, and experts to be disclosed by Plaintiff.

5. Disclosure of Information

The parties agree that they will produce the documents required by section H of the Court's Order Governing Proceedings. Plaintiff further agrees that it will produce any agreements in its possession, custody, or control regarding the transfer of patent rights to Plaintiff within 14 days of the submission of this joint report. Until such time as a supplemental protective order is entered, Defendants agree to limit any produced agreements to Defendants' outside counsel only.

Likewise, Defendants agree to produce financial information related to the accused products to Plaintiff's counsel within 14 days of the submission of this joint report. Until such time as a supplemental protective order is entered, Plaintiff agrees to limit any produced information to Plaintiff's outside counsel only.

The parties are working on procedure for electronic discovery and production and agree to submit a proposed Order Regarding E-Discovery within 45 days.

6. Preservation

The parties do not believe that any specific Preservation Order is needed in this case.

7. Other Orders Under Fed. R. Civ. P. 26(c), 16(b), or 6(c)

The parties agree that, to protect the parties' highly confidential information, a supplemental order governing access and use of highly confidential information in these cases is necessary. The parties agree to submit a proposed supplemental protective order within 45 days of entry of the scheduling order.

8. Estimated Trial Time

Plaintiff's Position: Plaintiff believes that the estimated time for a trial would be 2 weeks.

Defendants' Position: Because this case involves six patents and three discrete categories of technologies and accused products, Defendants believe that the estimated time for trial would be approximately three days for each subset of technology or around two weeks.

9. Name of Attorney's Appearing at the CMC

Plaintiff's lead counsel is located out of state and respectfully requests that they be allowed to attend telephonically in light of the on-going pandemic. Richard Juang and Ray Mort will attend the case management conference on behalf of Plaintiff NextGen Innovations LLC.

Darlene Ghavimi and Jason Engel will attend for Defendants II-VI, Inc. and Finisar Corporation

10. Other Matters

Defendants filed a motion to transfer this case to the Northern District of California. To the extent the Court has not ruled on the motion in advance of the upcoming scheduling conference and would like to hear argument, the parties are prepared to do so at the scheduling conference, or another time convenient for the Court.

The parties agree that absent a court order or stipulation stating otherwise, documents or communications that are subject to a claim of attorney-client privilege, work product protection, or any other privilege or immunity, need not be included on a

privilege log if such documents or communications were created on or after the filing date of the Complaint in this case.

Dated: May 3, 2021

Respectfully Submitted,

/s/_____

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